



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
SCHULER et al. : DECISION ON APPLICATION
Application No. 10/072,728 : FOR
Filed: 02/07/2002 : PATENT TERM ADJUSTMENT
Docket No. IMMR-0043E (034701-068) :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed March 10, 2010. Applicant asserts that that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) should be corrected from one hundred ninety-nine (199) days to one hundred seventy-two (172) days.

The request for review of the initial Determination of Patent Term Adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one hundred seventy-one (171) days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

Applicant states that the period of patent term adjustment should be reduced by 262 days pursuant to 37 CFR 1.704(c)(3). Specifically, applicant directs the Office's attention to the abandonment of the application for failure to submit a timely and proper reply to the final Office action mailed on December 13, 2004.

Pursuant to 37 CFR 1.704:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

The Office concurs with applicant that the period of adjustment should have been reduced pursuant to 37 CFR 1.704(c)(3)(ii). In this instance, a final Office action was mailed on December 13, 2004, which set a three-month shortened statutory period for reply. Applicant submitted a request for an extension of time for response within the third month. However, applicant did not file a timely and proper reply to the final Office action within the six-month statutory period for response. Thus, the application became abandoned on June 14, 2005. On November 3, 2005, applicant filed a petition under 37 CFR 1.137(b) to revive the application. A decision granting the petition to revive was mailed on August 28, 2006. Accordingly, the period of adjustment should be reduced by 263 days (not 262 as suggested by applicant), counting the number of days beginning on the date of abandonment, June 14, 2005, and ending on the lesser period of the date that is four months after the date the grantable petition to revive the application was filed, March 3, 2006. The period of reduction of 235 days will be removed and a period of reduction of 263 days will be entered.

The Office acknowledges the \$200.00 fee under 37 CFR 1.18(e) for the filing of the petition under 37 CFR 1.705(b).

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

10/072,728	INTERFACE DEVICE WITH TACTILE RESPONSIVENESS	09-08-2010::10:56:32
------------	----------------------------------------------	----------------------

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/072,728

Filing or 371(c) Date:	02-07-2002	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	489
A Delays:	489	PTO Manual Adjustments:	-28
B Delays:	0	Applicant Delays:	290
C Delays:	0	Total PTA Adjustments:	171

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
138	09-08-2010	Adjustment of PTA Calculation by PTO	263	0	
137	09-08-2010	Adjustment of PTA Calculation by PTO	235	0	
115	12-11-2009	Mail Notice of Allowance	0	0	
114	12-08-2009	Information Disclosure Statement (IDS) Filed	0	0	
113	12-08-2009	Issue Revision Completed	0	0	
112	12-08-2009	Document Verification	0	0	
111	12-08-2009	Notice of Allowance Data Verification Completed	0	0	
110	12-08-2009	Case Docketed to Examiner in GAU	0	0	
109	12-07-2009	Notice of Allowability	0	0	
108	11-10-2009	Information Disclosure Statement considered	0	0	
104	11-10-2009	Information Disclosure Statement (IDS) Filed	0	0	
103	10-27-2009	Paralegal TD Accepted	0	0	
102	10-09-2009	Date Forwarded to Examiner	0	0	
101	09-23-2009	Response after Non-Final Action	0	0	
100	09-23-2009	Terminal Disclaimer Filed	0	0	
99	06-24-2009	Mail Non-Final Rejection	0	0	
98	06-22-2009	Non-Final Rejection	0	0	
96	05-15-2009	Change in Power of Attorney (May Include Associate POA)	0	0	

95	05-11-2009	Correspondence Address Change	0
94	04-08-2009	Date Forwarded to Examiner	0
93	03-10-2009	Response after Non-Final Action	0
92	12-11-2008	Mail Non-Final Rejection	0
91	12-08-2008	Non-Final Rejection	0
90	08-11-2008	Information Disclosure Statement considered	0
89	08-11-2008	Reference capture on IDS	0
88	08-11-2008	Information Disclosure Statement (IDS) Filed	0 86
87	09-18-2008	Date Forwarded to Examiner	0
86	08-11-2008	Response after Non-Final Action	39 82
85	08-11-2008	Request for Extension of Time - Granted	0
83	08-11-2008	Information Disclosure Statement (IDS) Filed	0
82	04-03-2008	Mail Non-Final Rejection	0
81	03-31-2008	Non-Final Rejection	0
80	01-07-2008	Information Disclosure Statement considered	0
79	02-26-2008	Date Forwarded to Examiner	0
78	02-08-2008	RCE- AF Processed	0
77	02-26-2008	Date Forwarded to Examiner	0
76	02-08-2008	Request for Continued Examination (RCE)	6 67
75	02-26-2008	Disposal for a RCE / CPA / R129	0
74	02-08-2008	Workflow - Request for RCE - Begin	0
73	02-06-2008	Mail Advisory Action (PTOL - 303)	0
72	02-04-2008	Advisory Action (PTOL-303)	0
71	01-07-2008	Information Disclosure Statement (IDS) Filed	0
70	01-22-2008	Date Forwarded to Examiner	0

69	01-07-2008	Amendment after Final Rejection	0
68	01-07-2008	Information Disclosure Statement (IDS) Filed	0
67	11-02-2007	Mail Final Rejection (PTOL - 326)	0
66	11-01-2007	Final Rejection	0
65	08-20-2007	Information Disclosure Statement considered	0
64	08-20-2007	Reference capture on IDS	0
62	08-20-2007	Information Disclosure Statement (IDS) Filed	0 60
61	08-27-2007	Date Forwarded to Examiner	0
60	08-20-2007	Response after Non-Final Action	3 58
59	08-20-2007	Information Disclosure Statement (IDS) Filed	0
58	05-17-2007	Mail Non-Final Rejection	0
57	05-14-2007	Non-Final Rejection	0
56	02-20-2007	Information Disclosure Statement considered	0
55	02-20-2007	Reference capture on IDS	0
54.7	02-20-2007	Information Disclosure Statement (IDS) Filed	0 52
54	02-20-2007	Information Disclosure Statement (IDS) Filed	0
53	03-12-2007	Date Forwarded to Examiner	0
52	02-20-2007	Response after Non-Final Action	5 51
51	11-15-2006	Mail Non-Final Rejection	257 46
50	11-13-2006	Non-Final Rejection	0
49	09-07-2006	Date Forwarded to Examiner	0
48	11-03-2005	RCE- AF Processed	0
47	09-07-2006	Date Forwarded to Examiner	0
46	11-03-2005	Request for Continued Examination (RCE)	235 29
45	09-07-	Disposal for a RCE / CPA / R129	0

	2006			
44	09-07-2006	Case Docketed to Examiner in GAU	0	
43	08-28-2006	Mail-Petition to Revive Application - Granted	0	
42	04-26-2006	Correspondence Address Change	0	
41	11-03-2005	Petition Entered	0	
40	11-03-2005	Workflow - Request for RCE - Begin	0	
39	09-08-2005	Mail Abandonment for Failure to Respond to Office Action	0	
38	09-06-2005	Aband. for Failure to Respond to O. A.	0	
37	08-19-2005	Case Docketed to Examiner in GAU	0	
36	07-25-2005	Mail Advisory Action (PTOL - 303)	0	
35	07-21-2005	Advisory Action (PTOL-303)	0	
34	06-23-2005	Correspondence Address Change	0	
33	06-24-2005	Change in Power of Attorney (May Include Associate POA)	0	
32	06-23-2005	Date Forwarded to Examiner	0	
31	06-15-2005	Amendment after Final Rejection	0	
30	06-15-2005	Request for Extension of Time - Granted	0	
29	12-13-2004	Mail Final Rejection (PTOL - 326)	36	21
28	12-09-2004	Final Rejection		0
27	01-20-2004	Reference capture on IDS		0
26	03-18-2003	Reference capture on IDS		0
25	09-14-2004	IFW TSS Processing by Tech Center Complete		0
24	07-09-2004	Reference capture on IDS		0
23.7	07-09-2004	Information Disclosure Statement (IDS) Filed	2	21
23	07-09-2004	Information Disclosure Statement (IDS) Filed		0
22	09-14-2004	Date Forwarded to Examiner		0

21	07-07-2004	Response after Non-Final Action	0
20	07-07-2004	Workflow incoming amendment IFW	0
19	04-07-2004	Mail Non-Final Rejection	0
18	04-03-2004	Non-Final Rejection	0
17	01-29-2004	Date Forwarded to Examiner	0
16	01-20-2004	Response after Non-Final Action	0
15.7	01-20-2004	Information Disclosure Statement (IDS) Filed	0
15	01-20-2004	Information Disclosure Statement (IDS) Filed	0
14	10-21-2003	Case Docketed to Examiner in GAU	0
13	10-20-2003	Mail Non-Final Rejection	196
12	10-12-2003	Non-Final Rejection	0
11	09-26-2003	Case Docketed to Examiner in GAU	0
10.7	03-18-2003	Information Disclosure Statement (IDS) Filed	0
10	03-18-2003	Information Disclosure Statement (IDS) Filed	0
9	04-15-2003	Correspondence Address Change	0
8	03-18-2003	Preliminary Amendment	0
7	02-07-2002	Preliminary Amendment	0
6	04-24-2002	Case Docketed to Examiner in GAU	0
5	03-01-2002	Application Dispatched from OIPE	0
4	03-01-2002	Application Is Now Complete	0
2	02-22-2002	IFW Scan & PACR Auto Security Review	0
1	02-07-2002	Initial Exam Team nn	0

[Close Window](#)